



House Bill 423

Election Law - Voting Systems - Accessibility for Voters With Disabilities

MACo Position: **OPPOSE**

To: Ways and Means Committee

Date: February 2, 2021

From: Kevin Kinnally

The Maryland Association of Counties (MACo) **OPPOSES** HB 423. This bill would require each voter to use a ballot marking device that is accessible to voters with disabilities to vote at an early voting center or an Election Day polling place. The legislation places a very substantial administrative and cost burden onto local Boards of Elections, whose functions are supported by county funding.

HB 423 seeks to ensure that voters with disabilities are provided specified access to voting that is equivalent to access afforded voters without disabilities. **MACo does not raise policy objections with this goal – county concerns are merely practical and cost-driven.** Moreover, this legislation should be deferred until litigation pending before the U.S. District Court for the District of Maryland is resolved.

The National Federation of the Blind (NFB) filed a lawsuit in the U.S. District Court for the District of Maryland in August 2019 against the State Administrator of Elections and members of the State Board of Elections (SBE) alleging that the defendants have violated and continue to violate Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 by denying blind individuals an equal opportunity to vote in person by secret ballot. Subsequently, in September 2019, SBE filed a motion to dismiss the suit and the NFB filed a motion for a preliminary injunction, seeking an order requiring SBE to offer ballot marking devices as the default voting option to all Maryland voters in time for the 2020 general election. In February 2020, the court denied both motions, and the case is still pending.

As a rule, MACo resists state policies that result in costly or burdensome local implementation. This bill would result in substantial costs to local Boards of Elections, driving needs for additional ballot marking devices (approximately 18,000 statewide) to accommodate all eligible voters, as well as increased storage and transportation costs. Furthermore, local Boards of Elections indicate substantial costs for information technology personnel to test, prepare, troubleshoot, and maintain the additional ballot marking devices. According to the bill's fiscal note, county expenditures would increase by approximately \$5.5 million per year.

Under state law, counties have no choice but to fund these costs – competing for limited local funds against schools, public health, public safety, roadway maintenance, and other essential public services.

With litigation pending, this bill is premature, and would place a costly mandate on county governments to carry out new state policy. Accordingly, MACo urges the Committee to issue an **UNFAVORABLE** report on HB 423.